

Use of NIST Name



LETTER CIRCULAR 1128: NIST POLICY ON USE OF ITS NAME IN ADVERTISING

U.S. DEPARTMENT OF COMMERCE
Technology Administration
National Institute of Standards & Technology (NIST)

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INTRODUCTION

The name of the National Institute of Standards & Technology (NIST) is sometimes used in advertising by commercial firms in a manner contrary to Government regulations and inconsistent with NIST policy. This brochure cites these regulations, delineates NIST policy, and provides guidance on compliance in typical situations.

FEDERAL REGULATIONS AND NIST POLICY

The official policy of NIST regarding the use of its name in advertising can be found in Section 200.113 of Title 15 of the Code of Federal Regulations:

"As the national standards laboratory of the United States, NIST maintains and establishes the primary standards from which measurements in science and industry ultimately derive. It is therefore sometimes desirable for manufacturers or users of measurement standards to make appropriate reference to the relationship of their calibrations to NIST calibrations. The following considerations must be borne in mind, and shall be understood as constituting an agreement on the part of the NIST customer to be bound thereby in making reference to NIST calibration and test reports.

"The results of calibrations and tests performed by NIST are intended solely for the use of the organization requesting them, and apply only to a particular device or specimen at the time of its test. The results shall not be used to indicate or imply that they are applicable to other similar items. In addition, such results must not be used to indicate or imply that NIST approves, recommends, or endorses the manufacturer, the supplier, or the user of such devices or specimens, or that NIST in any way 'guarantees' the later performance of items after calibration or test.

"NIST declares it to be in the national interest that NIST maintain an impartial position with respect to any commercial product. Advertising the findings on a single instrument could be misinterpreted as an indication of performance of other instruments of identical or similar type. There will be no objection, however, to a statement that the manufacturer's primary standards have been periodically calibrated by NIST, if this is actually the case, or that the customer might arrange to have NIST calibrate the item purchased from the manufacturer.

"NIST does not approve, recommend, or endorse any product or proprietary material. No reference shall be made to NIST or to reports or results furnished by NIST in any advertising or sales promotion which would indicate or imply that NIST approves, recommends, or endorses any product or proprietary material, or which has as its purpose an intent to cause directly or indirectly the advertised product to be used or purchased because of NIST test reports or results.

"In its own activities as a scientific institution, NIST uses many different materials, products, types of

equipment, and services. This use does not imply that NIST has given them a preferential position or a formal endorsement. Therefore, NIST discourages references, either in advertising or in the scientific literature, which identify it as a user of any proprietary product, material, or service. Occasionally effective communication of results by NIST to the scientific community requires that a proprietary instrument, product, or material be identified in an NIST publication. Reference in an NIST publication, report, or other document to a proprietary item does not constitute endorsement or approval of that item and such reference should not be used in any way apart from the context of the NIST publication, report, or document without the advance express written consent of NIST."

The policy on the use of the NIST name has been expanded to include NIST-traceable reference materials and NIST-developed software/algorithms. Accordingly, NIST, in cooperation with commercial firms, may produce and characterize reference materials which are directly traceable to NIST and are, therefore, labeled "NIST traceable reference materials." Further, commercial firms may produce computer software which incorporates NIST-developed algorithms. The producer shall be allowed to cite NIST as the source of those specific portions of the product by the inclusion of the phrase, "Incorporates NIST- developed software/algorithm." These citations do not mean, and should not be implied to mean, evaluation, endorsement, or certification of commercial firms' products and services.

ADDITIONAL INFORMATION

In order to clarify NIST policy further, five typical examples of advertising are given, showing activities which are prohibited and which are acceptable.

EXAMPLE 1

The XYZ Instrument Company reads a NIST technical paper in the open literature describing the design of a new type of instrument developed as part of a NIST research project. XYZ likes the design and decides to manufacture and sell an instrument based on this design, which they refer to as an "XYZ/NIST Instrument" both in their advertising and on the front panel of the instruments.

COMMENTARY: While NIST encourages commercial firms to utilize the results of NIST research to the greatest extent possible, the use of NIST's name in association with a proprietary product in that manner is prohibited! Even if the advertising copy and product literature were to make clear NIST's lack of involvement in the commercial venture, the possible implication that NIST is involved with this particular product is contrary to the policy stated above that NIST maintain an impartial position with respect to commercial products and also causes concern on the part of the manufacturers of competing instruments.

RECOMMENDATION: In this case, the manufacturer should have limited mention of NIST to stating that XYZ's design of the instrument is based on technical information published by NIST (and reference the appropriate technical paper) or based on a NIST design.

EXAMPLE 2

A manufacturer labels a product it manufactures as "NIST traceable" or prominently displays this phrase in its advertising.

COMMENTARY: Many Federal regulations and contracts require regulated organizations or contractees to demonstrate that the measurements that they make are "traceable" to national standards. NIST encourages this practice but at the same time cannot condone the prominent display of its name on proprietary products or in the advertising of them. This particular use of NIST's name clearly implies NIST's endorsement contrary to our policy as stated above.

RECOMMENDATION: The manufacturer in this case could have described in some detail how their product is calibrated. This could include a discussion of how their laboratory standards are related to national standards through direct calibration by NIST or indirectly through an intermediate calibration laboratory. As long as this description is factual and the NIST name is not prominently displayed, NIST would encourage such practice.

EXAMPLE 3

An organization claims by virtue of NIST calibration or test reports, that NIST "certifies" its standards.

COMMENTARY: NIST does not "certify" customer standards or products, since the word "certify" carries a connotation of a warranty or guarantee. Obviously, NIST cannot warrant or guarantee the quality or reliability of standards or products calibrated by NIST once they leave NIST following calibration. Even high quality standards do drift with time, and NIST test reports make clear that the value assigned to a calibrated standard is only valid in a rigorous sense at the time that the calibration was performed at NIST.

RECOMMENDATION: Organizations should limit the use of NIST's name to factual statements such as "Our standard cells are submitted to NIST for recalibration at intervals of approximately two years."

EXAMPLE 4

An organization produces a reference material in cooperation with NIST, samples the material, determines uniformity and characteristics, provides samples to NIST for final characterization, and then sells the remainder of the lot as NIST TRACEABLE REFERENCE MATERIALS.

COMMENTARY: These materials have been measured by the manufacturer and by NIST for uniformity and characteristics. A well documented sampling process and measurement chain exists. NIST favors the use of such materials and may authorize the use of the term NIST TRACEABLE REFERENCE MATERIALS.

RECOMMENDATION: Use of the term NIST TRACEABLE REFERENCE MATERIALS is restricted to reference materials that have been manufactured offsite, rigorously sampled, and then characterized by NIST.

The term "NIST Traceable Reference Material" is permissible only for reference materials which are (1) manufactured and characterized by a commercial company, then (2) rigorously sampled, and (3) then finally characterized by NIST using the samples from the original lot.

EXAMPLE 5

A software manufacturer labels a product as NIST-approved by virtue of incorporating NIST-developed software or algorithms in the program.

COMMENTARY: NIST encourages industry use of NIST-developed software or algorithms in commercial software and the acknowledgement by industry of such use. However, NIST should not be represented as certifying or endorsing commercial software because NIST has no control over how the software or algorithms were incorporated and used.

RECOMMENDATION: The manufacturer can cite the incorporation of NIST-developed software or

algorithms without implying that NIST has evaluated, endorsed, or certified the commercial software product.

FOR ADDITIONAL INFORMATION, CONTACT:

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U. S. DEPARTMENT OF COMMERCE NATIONAL BUREAU OF STANDARDS WASHINGTON - BOULDER	81-43 Public Information	
ADMINISTRATIVE BULLETIN Expiration Date: December 31, 1981	September 28, 1981	
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Use of the NBS Name in Advertising		

NBS employees receive numerous inquiries from the public concerning use of the NBS name in advertising as a result of calibrations and tests performed by NBS. To address this issue, the attached circular has been prepared by the Office of Measurement Services to outline Bureau policy on this matter. A copy of this circular must be attached to any correspondence relating to advertising using the NBS name.

Bureau employees who notice advertising which appears to misuse the NBS name should bring this to the attention of Dr. Lee J. Kieffer, Office of Measurement Services, extension 2805. Requests for additional copies of the circular should be directed to that office. Questions about the circular should be directed to the Office of Measurement Services or to the Office of the Legal Adviser, extension 2425.

Attachment : LC 1128 -

